

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,

v.

PETER KOTT,

Defendant.

Case No. 3:07-cr-00056-JWS

JOINT STATUS REPORT

On June 10, 2009, the United States Court of Appeals for the Ninth Circuit granted the government's Motion for Remand to the District Court to determine: "(1) whether the government breached its obligation of full disclosure under *Brady* [*v. Maryland*, 373 U.S. 83 (1963),] and *Giglio v. United States*, 405 U.S. 150, 154 (1972); (2) if so, whether the defendant was prejudiced by the violation; and (3) if the defendant was prejudiced, what the remedy should be." The Ninth Circuit clarified that "[t]he district court is, of course, free to follow whatever procedure it deems appropriate and expeditious in its discretion."

On June 17, 2009, this Court ordered the parties to file a status report regarding discovery and scheduling issues on or before August 31, 2009. (Dkt No. 386). On August 10, 2009, the government filed its certification that it had completed its review and production. (Dkt No. 401). The parties further report that we have conferred on the three questions for remand and we are not in a position to make joint recommendations as to the outcome of the remand questions.

Accordingly, and subject to the Court's calendar, the parties respectfully propose that the Court order Defendant Kott to file any motions pertaining to the remand questions by September 30, 2009; and to order the United States to file its response on or before October 30, 2009. Any reply to the government's response should be filed by November 13, 2009. The parties defer to

the Court as to the scheduling of any hearing(s) but we anticipate our availability in November or December, 2009.

Respectfully submitted,

LANNY A. BREUER
Assistant Attorney General

/s/ James M. Trusty
JAMES M. TRUSTY
Deputy Chief
Gang Unit
Criminal Division
U.S. Department of Justice

KEVIN R. GINGRAS
Attorney
Appellate Section
Criminal Division
U.S. Department of Justice

PETER M. KOSKI
Trial Attorney
Public Integrity Section
Criminal Division
U.S. Department of Justice

/s/ Sheryl Gordon McCloud
SHERYL GORDON MCCLOUD
Attorney for Peter Kott

KAREN LOEFFLER
U.S. Attorney
U.S. Attorney's Office for the District of Alaska

/s/ Kevin Feldis
KEVIN FELDIS
Chief, Criminal Division
U.S. Attorney's Office for the District of Alaska

Dated: August 28, 2009

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I caused a true and correct copy of the foregoing Joint Status Report to be electronically filed and it is available for viewing and downloading from the ECF system.

/s/ Peter M. Koski
PETER M. KOSKI
U.S. Department of Justice

Dated: August 28, 2009